IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

MONDAY, THE THIRTEENTH DAY OF DECEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE G. BIKSHAPATHY

and
THE HON'BLE MR JUSTICE P.S.NARAYANA

WRIT PETITION NO : 20603 of 2004

Between:

G.Kondal Reddy, S/o.Late Sri G.Somi Reddy,
R/o.H.No.16-11-511/D/65, Shalivahana Nagar,
Dilsukhnagar, Hyderabad.

..... PETITIONER

AND

1 The Govt. of A.P. rep. by its Prl. Secretary, Panchayat Raj & Rural Development (Est.1.2) Dept., Secretariat, Hyderabad.
2 The Engineer-in-Chief, Panchayat Raj Department, Erramanzil, Hyderabad.
3 P.Babu Rao, S/o.not Known to the petitioner,
RWS, Achampet, Nagarkurnool.

.....RESPONDENT(S)

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a writ order or direction more particularly on in the nature of writ of certiorari by calling for the records pertaining to the order in O.A.No.6055/2004 dt. 4-11-04 on the file of the A.P.Admn. Tribunal, Hyderabad and set-aside the order dt.29-10-2004 in GORt No.1669, issued by the 2nd respondent as being illegal, arbitrary, unconstitutional and without jurisdiction and pass.

Counsel for the Petitioner: MR.B.VIJAYSEN REDDY

Counsel for the Respondent No.: GP FOR PANCHAYAT RAJ & RURAL DEV.

The Court made the following :

ORAL ORDER (Per Hon'ble Sri Justice G.Bikshapathy)

1. This writ petition is filed assailing the order passed by the A.P. Administrative Tribunal, Hyderabad in O.A.No.6055 of 2004, dated 4.11.2004.

2. The matter relates to the transfer of the petitioner. He was working as Executive Engineer, RWS at Achampet, and by virtue of the transfer order, dated 29.10.2004, he was sent to Ongole. The said order came to be challenged by the petitioner before the Tribunal. The learned Tribunal, however, refused to interfere with the order and accordingly dismissed the O.A. by an order, dated 14.11.2004. Against the said order, the present writ petition has been filed.

3. The learned counsel for the petitioner, however, tried to make out a point that the transfer order is *mala fide* inasmuch as, in order to accommodate one P.Baburao, the said order came to be passed and therefore, the order is liable to be set aside. The learned counsel would also submit that one N.Yesuratnam was transferred to Ongole and he filed O.A.No.4854 of 2004 and the said O.A. was disposed of with a direction that the Government shall consider the appeal filed by him and consequently, the Government favourably considered the

appeal and he was retained at Nagarkurnool. Consequent on his retention, P.Baburao should have been transferred to Ongole and not the petitioner and thus the learned counsel would submit that this aspect was not considered by the Tribunal and wrongly dismissed the O.A. filed by the petitioner.

4. We have heard the learned Government Pleader also. It is not in dispute that the transfer order is challenged before the Tribunal.

5. The prime contention of the learned counsel for the petitioner is that it is a *mala fide* transfer and in order to accommodate P.Baburao, such an order came to be passed. We see no force in the contention of the learned counsel for the petitioner. We are not in a position to set aside the order of transfer as these transfers are effected on administrative grounds. However, the contention of the learned counsel for the petitioner is that consequent on the retention of N.Yesuratnam at Nagarkurnool, P.Baburao ought to have been transferred, but the petitioner has been unnecessarily transferred. This aspect has to be considered by the Government but not by this Court sitting under Article 226 of Constitution of India.

6. Under those circumstances, we dispose of the writ petition with a direction that the petitioner shall file an appeal before the Government within a period of one week from today and thereafter the Government shall consider the matter in proper perspective and pass appropriate orders within a period of one week thereafter.

7. The writ petition is accordingly disposed of. No costs.

(G. BIKSHAPATHY, J.)

13th December, 2004.

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(P.S. NARAYANA, J.)

To

1 The Principal Secretary, The Govt. of A.P. Panchayat Raj & Rural Development (Est.1.2) Dept., Secretariat, Hyderabad.
2 The Engineer-in-Chief, Panchayat Raj Department, Erramanzil, Hyderabad.
3 P.Babu Rao, S/o.not Known to the petitioner,
RWS, Achampet, Nagarkurnool.

4 Two C.Cs. to the Government Pleader for Services-II, High Court Buildings, Hyderabad (OUT)

5 Two C.D. copies

Note: Furnish copy in two days.

(B/o)

bcj